

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

NATALIE SOTO,

Plaintiff,

Civil Action

File No.: 1:24-cv-02911-SDG

v.

WENDELL HOLMES, JR.,

Defendant.

**PLAINTIFF’S MOTION TO STRIKE DEFENDANT’S UNAUTHORIZED
SURREPLY [DOC. 67]**

Plaintiff Natalie Soto respectfully moves the Court to strike Defendant’s unauthorized surreply [Doc. 67], filed on April 28, 2025, in response to Plaintiff’s Reply Brief [Doc. 60] in support of her Motion to Dismiss Defendant’s Amended Counterclaim [Doc. 52]. In support thereof, Plaintiff shows the Court as follows:

I. BACKGROUND

On April 17, 2025, Plaintiff filed a Motion to Dismiss Defendant’s Amended Counterclaim [Doc. 52]. Defendant filed a Response in Opposition on April 21, 2025 [Doc. 54], and Plaintiff filed her Reply Brief on April 24, 2025 [Doc. 60]. On April 28, 2025, without seeking leave of Court, Defendant filed a second opposition brief styled as a “Response in Opposition to Plaintiff’s Motion

to Dismiss Defendant’s Amended Counterclaim” [Doc. 67]. This second opposition brief is plainly a surreply directed at Plaintiff’s Reply Brief, and was filed without leave of Court.

II. ARGUMENT AND CITATION OF AUTHORITY

Surreplies are not permitted as a matter of right in this District. As the Northern District of Georgia has held:

“Neither the Federal Rules of Civil Procedure nor this Court's Local Rules authorize the filing of surreplies. Although the Court may in its discretion permit the filing of a surreply, this discretion should be exercised in favor of allowing a surreply only where a valid reason for such additional briefing exists.”

Byrom v. Delta Family Care—Disability and Survivorship Plan, 343 F. Supp. 2d 1163, 1188 (N.D. Ga. 2004).

“[T]o allow such surreplies as a regular practice would put the court in the position of refereeing an endless volley of briefs.”

Garrison v. Northeast Ga. Med. Ctr., Inc., 66 F. Supp. 2d 1336, 1340 (N.D. Ga. 1999).

Because Defendant did not seek or obtain leave to file a surreply, and no valid basis for such an additional filing exists, Doc. 67 should be stricken from the record.

III. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court STRIKE Defendant's unauthorized surreply [Doc. 67] in its entirety, or in the alternative, disregard it for purposes of ruling on Plaintiff's Motion to Dismiss.

Respectfully submitted this 30th day of April, 2025.

/s/ Joseph W. Weeks
Joseph W. Weeks
Attorney for Plaintiff
Georgia Bar No. 912341

McNALLY WEEKS
125 Clairemont Ave.
Suite 450
Decatur, GA 30030
404-373-3131 (phone)
404-373-7286 (facsimile)

LR 7.1(D) NDGa. CERTIFICATE

I, Joseph W. Weeks, hereby certify that the foregoing PLAINTIFF'S MOTION TO STRIKE DEFENDANT'S UNAUTHORIZED SURREPLY [DOC. 67] has been prepared with one of the font and point selections approved by the Court in LR 5.1, NDGa.

This 30th day of April, 2025.

McNally Weeks

/s/ Joseph W. Weeks
Joseph W. Weeks

CERTIFICATE OF SERVICE

The undersigned counsel of record hereby certifies that true and correct copies of the within and foregoing **PLAINTIFF'S MOTION TO STRIKE DEFENDANT'S UNAUTHORIZED SURREPLY [DOC. 67]** have been served upon the Defendant via email and/or First Class Mail at Defendant's last known mailing address and/or email address, as follows:

Wendell Holmes, Jr.
5934 Rosie Lane, SE
Mableton, GA 30126
wendellholmesjr@gmail.com

This 30th day of April, 2024.

/s/ Joseph W. Weeks
Joseph W. Weeks
Attorney for Plaintiff
Georgia Bar No. 912341

McNALLY WEEKS
125 Clairemont Ave., Suite 450
Decatur, GA 30030-2560
jweeks@mcnallyweeks.com (email)
404-373-3131 (phone)
404-373-7286 (facsimile)